

**See Attachment**

*Procc*  
*B*

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

IAMS,

Plaintiff

v.

MARTIN L. DRAGOVICH, ET AL.,

Defendants

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CIVIL NO. 1:CV-01-0280

(Judge Kane)

**FILED  
HARRISBURG**

JAN 04 2002

MARY E. D'ANDREA, CLERK

Per *[Signature]*  
DEPUTY CLERK

**ORDER**

Plaintiff, an inmate at the Schuylkill County Prison, Pottsville, Pennsylvania, filed this civil rights action pursuant to 42 U.S.C. § 1983, in which he complains of events which occurred while he was confined at the State Correctional Institution at Mahanoy, Pennsylvania, (SCI-Mahanoy). Plaintiff alleges that defendants Martin Dragovich, James McGrady and Richard Spaide, conspired against him in violation of his Eighth Amendment rights.

On September 21, 2001, defendants filed a motion to dismiss the plaintiff's complaint. (Doc. No. 13). On October 3, 2001, defendants filed a brief in support of their motion. (Doc. No. 14). Though plaintiff's brief in opposition to the motion is now long overdue, he has neither made an appropriate filing nor requested an extension of time in which to do so. Therefore, the motion to dismiss may be deemed unopposed. M.D. Pa. Local Rule 7.6.<sup>1</sup>

<sup>1</sup> An opposing party must file a brief in opposition to a motion within fifteen (15) days after service of the movant's brief. See

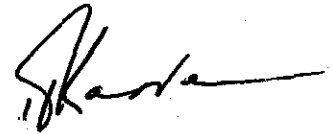
Generally, a dispositive motion may not be granted merely because it is unopposed. Because Local Rules of Court must be "construed and applied in a manner consistent with the Federal Rules of Civil Procedure," Anchorage Assoc. v. Virgin Islands Board of Tax Review, 922 F.2d 168, 174 (3d Cir. 1990), the disposition of an unopposed motion ordinarily requires a merits analysis. The Court of Appeals for the Third Circuit has stated, however, that Local Rule 7.6 can be applied to grant a motion to dismiss without analysis of the complaint's sufficiency "if a party fails to comply with the rule after a specific direction to comply from the court". Stackhouse v. Mazurkiewicz, 951 F.2d 29, 30 (3d Cir. 1991).

Because plaintiff's failure either to file a brief in opposition to defendants' motion or otherwise to communicate with the Court indicates that he may have lost interest in prosecuting this lawsuit, the Court will dismiss this case without a merits analysis under the authority of Stackhouse if plaintiff fails to oppose the motion or otherwise communicate with the Court within twenty (20) days of the date of this Order.

ACCORDINGLY, THIS 4th DAY OF January 2002 ~~DECEMBER~~, 2001, IT IS  
HEREBY ORDERED THAT:

Plaintiff is directed to file a brief in opposition to defendants' motion to dismiss within twenty (20) days of the

date of this Order or said motion will be deemed unopposed and granted without a merits analysis. See M.D. Pa. Local Rule 7.6; Stackhouse v. Mazurkiewicz, 951 F.2d 29, 30 (3d Cir. 1991).



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YVETTE KANE  
United States District Judge

YK:dlb

UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

\* \* MAILING CERTIFICATE OF CLERK \* \*

January 4, 2002

Re: 1:01-cv-00280 Williams v. Dragovich

True and correct copies of the attached were mailed by the clerk  
to the following:

James H. Williams  
SCI-GREENE  
AY-8692  
175 Progress Drive  
Waynesburg, PA 15370

Linda S. Lloyd, Esq.  
Office of Attorney General  
15th Floor  
Strawberry Square  
Harrisburg, PA 17120

cc:

Judge	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> ) Pro Se Law Clerk
Magistrate Judge	( )	( ) INS
U.S. Marshal	( )	( ) Jury Clerk
Probation	( )	
U.S. Attorney	( )	
Atty. for Deft.	( )	
Defendant	( )	
Warden	( )	
Bureau of Prisons	( )	
Ct Reporter	( )	
Ctroom Deputy	( )	
Orig-Security	( )	
Federal Public Defender	( )	
Summons Issued	( )	with N/C attached to complt. and served by: U.S. Marshal ( ) Pltf's Attorney ( )
Standard Order 93-5	( )	
Order to Show Cause	( )	with Petition attached & mailed certified mail to: US Atty Gen ( ) PA Atty Gen ( ) DA of County ( ) Respondents ( )
Bankruptcy Court	( )	
Other _____	( )	

MARY E. D'ANDREA, Clerk

1-4-02

